
STATUTORY INSTRUMENTS

2013 No. 413

**The National Health Service Pension Scheme,
Additional Voluntary Contributions and Injury
Benefits (Amendment) Regulations 2013**

PART 3

Amendment of the National Health Service Pension Scheme Regulations 2008

Part 3: General

22. The National Health Service Pension Scheme Regulations 2008(1) are amended in accordance with this Part.

Amendment of regulation 1.B.1

23. Omit paragraphs (4), (5) and (6) of regulation 1.B.1 (actuarial reports and accounts).

Omission of regulation 1.B.2

24. Omit regulation 1.B.2 (cost sharing).

Amendment of regulation 2.A.1

25.—(1) Regulation 2.A.1 (interpretation: general), is amended as follows.

(2) At the appropriate place in the alphabetical order, insert—

““the 2008 Act” means the Pensions Act 2008(2);”;

““the 2010 Regulations” means the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(3);”;

““automatic enrolment date” means the date referred to in section 3(7) of the 2008 Act;”;

““automatic re-enrolment date” means the date determined in accordance with regulation 12 of the 2010 Regulations (as modified by regulation 14(4) of those Regulations);”;

““NHS 111 services” means services provided as part of the telephone advice line commissioned by a Clinical Commissioning Group or the National Health Service Commissioning Board;”.

(3) In the definition of—

(a) “APMS contract” and “APMS contractor”(5) for—

(1) [S.I. 2008/653](#) as amended by [S.I. 2008/2263](#), [2009/381](#), [1298](#) and [2446](#), [2010/492](#) and [1634](#), [2011/591](#) and [2586](#) and [2012/610](#).
(2) [2008 c.30](#).
(3) [S.I. 2010/772](#).
(4) Regulation 14 was substituted by [S.I. 2012/215](#), regulations 17, 22.
(5) Amended by [S.I. 2008/2263](#), regulation 25(1), (2)(a).

- (i) “a Primary Care Trust” substitute “the National Health Service Commissioning Board”, and
- (ii) “section 83(2)(b)” substitute “section 83(2)”;
- (b) “collaborative services”—
 - (i) omit “the Secretary of State,” (twice),
 - (ii) for “a Primary Care Trust” substitute “the National Health Service Commissioning Board, a Clinical Commissioning Group”,
 - (iii) for “the Primary Care Trust” substitute “the National Health Service Commissioning Board, a Clinical Commissioning Group”,
 - (iv) for “section 80(6)”, substitute “section 80(6A)”;
- (c) “commissioned services”—
 - (i) in paragraph (b)(i), omit “a Strategic Health Authority or”,
 - (ii) for paragraph (b)(ii), substitute—
 - “(ii) the National Assembly for Wales, the National Health Service Commissioning Board or a Local Health Board under, in the case of England, section 12ZA of the 2006 Act or, in the case of Wales, section 10 of the 2006 (Wales) Act (which relates to arrangements made with any person or body, including a voluntary one, for the provision of services under the Act); or”,
 - (iii) at the end of paragraph (b)(iv), insert “or”,
 - (iv) after paragraph (b)(iv), add—
 - “(v) a local authority acting under section 2B of the 2006 Act;”;
- (d) “dentist performer”—
 - (i) in paragraph (a), for “vocational trainee” substitute “foundation trainee” and for “vocational training” substitute “foundation training”,
 - (ii) for paragraph (b)(iii), substitute—
 - “(iii) a contract for services with a Local Health Board which relates to arrangements under which it provides primary dental services under section 56(2) of the 2006 (Wales) Act (primary dental services) or a PDS agreement to which a PDS contractor is not a party;”;
- (e) “employing authority”—
 - (i) paragraphs (a) and (c) are omitted,
 - (ii) in paragraph (g)(i), after the words “an Act relating to health services” insert “(in whole or in part)”,
 - (iii) in paragraph (n), omit “Trust or”, and
 - (iv) after paragraph (n), add—
 - “(o) the National Health Service Commissioning Board established under section 9 of the Health and Social Care Act 2012(6);
 - (p) a Clinical Commissioning Group established under section 10 of the Health and Social Care Act 2012;”;
- (f) “GDS contractor”, for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;

- (g) “GMS practice”(7) for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
 - (h) “GP performer”—
 - (i) for “or certification services”, substitute “, certification services, Board and advisory work, health-related functions exercised under section 75 of the 2006 Act, NHS 111 services or pharmaceutical services”,
 - (ii) in paragraph (c)—
 - (aa) omit “a Primary Care Trust or”,
 - (bb) in sub-paragraph (i), omit “83(2)(a) of the 2006 Act or”,
 - (cc) in sub-paragraph (ii), omit “or section 92 arrangements made between a Primary Care Trust or a Local Health Board and a Strategic Health Authority”;
 - (i) “host Trust or Board”(8)—
 - (i) for “host Trust or Board” substitute “host Board”,
 - (ii) for “each Primary Care Trust or Local Health Board” substitute “the National Health Service Commissioning Board or each Local Health Board”,
 - (iii) for “relevant Trust or Board” substitute “relevant Board”,
 - (iv) for “appropriate Trust or Board” substitute “appropriate Board”;
 - (j) “locum practitioner”—
 - (i) in paragraph (e), omit “Primary Care Trust or”, and
 - (ii) after “certification services” insert “, Board and advisory work, health related functions exercised under section 75 of the 2006 Act, NHS 111 services”;
 - (k) “medical performers’ list”, in paragraph (a), for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
 - (l) “ophthalmic provider”(9), in paragraph (a)(i), for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
 - (m) “PDS contractor”, in paragraph (b)—
 - (i) for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”, and
 - (ii) omit “nor a Strategic Health Authority,”; and
 - (n) “PMS practice”, for—
 - (i) “a Primary Care Trust” substitute “the National Health Service Commissioning Board”, and
 - (ii) “the Primary Care Trust” substitute “the National Health Service Commissioning Board”.
- (4) For the definition of—
- (a) “enhanced services”, substitute—
 - “enhanced services, in relation to—
 - (a) a GMS practice, has the meaning given in regulation 2(1) of the GMS Contracts Regulations; or

(7) Amended by [S.I. 2010/492](#), regulations 16 and 17(a)(i) and (ii).

(8) Substituted by [S.I. 2008/2263](#), regulation 25(1), (2)(d) and amended by [S.I. 2009/2446](#), regulations 11, 13(d) and by [S.I. 2010/492](#), regulations 16, 17(b).

(9) Inserted by [S.I. 2010/492](#) regulations 16, 17(d).

- (b) any other performer or provider of primary medical services, means services which, if provided by a GMS practice, would be enhanced services within the meaning given in regulation 2(1) of those Regulations,

and in each case, includes local enhanced services and public health local enhanced services which were, prior to 1st April 2013, commissioned by a Primary Care Trust under regulation 2(1) of the GMS Contracts Regulations as—

- (i) local enhanced services, or
(ii) public health local enhanced services and transferred, on or after 1st April 2013, to a local authority by a transfer scheme made pursuant to section 300 of the Health and Social Care Act 2012”; and

- (b) “pay period”, substitute—

““pay period” means, in relation to members who receive either salary, wages or other regular payments under a contract of employment or a contract for services, the period in respect of which each payment is made in accordance with the terms of that contract;”.

Amendment of regulation 2.A.6

26. In paragraph (6) of regulation 2.A.6 (qualifying service: disregard of breaks in service)(**10**)—

- (a) for “Paragraphs (2), (4) and (5) do not apply if” substitute “Where”,
(b) in sub-paragraph (a), after “the earlier period” insert “, paragraphs (4) and (5) do not apply”, and
(c) in sub-paragraph (b), at the end, add “, paragraphs (2), (4) and (5) do not apply”.

Amendment of regulation 2.A.8

27.—(1) Regulation 2.A.8 (meaning of “pensionable pay”) is amended as follows.

(2) In paragraph (6) for “or collaborative services”, substitute “, collaborative services or health-related functions exercised under section 75 of the 2006 Act”.

(3) In paragraph (9), after “will be made by” insert “the National Health Service Commissioning Board or” and omit “or Primary Care Trust”.

(4) In paragraph (10), omit “Trust or”.

(5) In paragraph (11), sub-paragraph (b)(i), for “Primary Care Trust” substitute “National Health Service Commissioning Board”.

Amendment of regulation 2.A.15

28.—(1) Regulation 2.A.15 (out of hours providers)(**11**) is amended as follows.

(2) In paragraph (1)—

- (a) for “Primary Care Trust” (four times) substitute “Clinical Commissioning Group, the National Health Service Commissioning Board”; and
(b) in sub-paragraph (b)(vii)(bb), for “Trust” substitute “Group”.

(3) In paragraph (3), for “Primary Care Trust” substitute “Clinical Commissioning Group, the National Health Service Commissioning Board”.

(10) Amended by [S.I. 2009/2446](#), regulations 11, 103, Schedule 2, Part 1, paragraph 1(a).

(11) Amended by [S.I. 2009/2446](#), regulations 1(2), 11, 103 Schedule 2, Part 1, paragraph 1(a) and by the Cooperative and Community Benefit Societies and Credit Unions Act 2010 (c. 7), section 8(2), (3).

- (4) In paragraphs (3), (4), (5)(a), (8)(twice), (9)(twice) and (10), for “Trust” substitute “Group”.

Amendment of regulation 2.B.4

29.—(1) Regulation 2.B.4 (joining this Section of the Scheme), is amended as follows.

(2) For paragraph (1), substitute—

“(1) Subject to paragraph (3), a person in NHS employment who is eligible to be an active member of this Section of the Scheme, becomes such a member, unless absent from work for any reason, on either—

- (a) the commencement of the person’s employment; or
- (b) where the person has previously opted out of this Section of the Scheme under regulation 2.B.5(1) and is a person to whom section 3 or section 5 of the 2008 Act applies—
 - (i) on that person’s automatic enrolment date, or
 - (ii) on that person’s automatic re-enrolment date, except where the notice referred to in regulation 2.B.5(1) was given within 12 months immediately preceding that date.”.

(3) For paragraph (3), substitute—

“(3) A person who has previously exercised an option to opt out of this Section of the Scheme in accordance with regulation 2.B.5(1) in respect of an employment in which that person was an active member, and who remains eligible to be an active member in respect of that employment, may opt to join or re-join this Section of the Scheme by giving notice in writing to the employing authority in such form as the Secretary of State requires.”.

(4) Omit paragraph (6).

Amendment of regulation 2.B.5

30.—(1) Regulation 2.B.5 (opting out of this Section of the Scheme), is amended as follows.

(2) In paragraph (1), after “any” insert “NHS”.

(3) For paragraphs (4) to (6), substitute—

“(4) A person to whom paragraph (1)(a) of regulation 2.B.4 applies in respect of an employment who gives notice in writing under paragraph (1) of this regulation within one month of the date of commencing that NHS employment, is treated as not having become an active member by virtue of that regulation.

(5) A notice under paragraph (1) shall cease to have effect on the day immediately preceding, as the case may be, the person’s—

- (a) automatic enrolment date, or
- (b) automatic re-enrolment date: this does not apply where the notice was given within 12 months immediately preceding that date.

(6) This regulation does not apply to a person to whom sections 3, 5 or 8 of the 2008 Act⁽¹²⁾ and regulations 9 or 15 of the 2010 Regulations⁽¹³⁾ applies (that is, a person who

(12) Section 3 makes provision for the automatic enrolment of a qualifying worker into a qualifying scheme like the NHS Pension Scheme. Section 5 makes provision for the automatic re-enrolment of such a person into such a scheme who has previously opted out of it. Section 8 makes provision for the opting out of such a scheme, including the effect of such an opt out.

(13) Regulation 9 sets out the requirements for a valid opt out notice and the time period during which a person who has been automatically enrolled into a qualifying scheme may opt out of it. Regulation 15 applies the provisions of regulation 9 to a person who has been automatically re-enrolled into a qualifying scheme having previously opted out of it. Note that regulation 11 deals with the refund of contributions following an opt out.

is subject to automatic enrolment or automatic re-enrolment in this Section of the Scheme as a qualifying scheme who does not wish to participate in it): this paragraph does not affect the rights of such a person who subsequently becomes a member of this Section of the Scheme in circumstances where those provisions of the 2008 Act and 2010 Regulations do not apply.”.

Amendment of regulation 2.C.1

31.—(1) Regulation 2.C.1 (contributions by members)(**14**) is amended as follows.

(2) In paragraph (4), omit “Trust or”.

(3) For paragraphs (5) and (6), substitute—

“(5) Paragraph (6) applies where, despite the provisions of this regulation—

- (a) a type 1 or type 2 practitioner, locum practitioner or non-GP provider has failed to pay D1 contributions;
- (b) a type 1 practitioner or non-GP provider has failed to pay D2(1) contributions; or
- (c) an employing authority has failed to deduct D1 contributions.

(6) The Secretary of State may recover the amount of any unpaid contributions referred to in paragraph (5)—

- (a) where an employing authority has ceased to exist and sub-paragraph (a) of that paragraph applies, by adding the amount of those unpaid contributions to the amount of D1 contributions the practitioner or non-GP provider in question is due to pay to the host Board: that practitioner or non-GP provider is to record that amount of those unpaid contributions in a certificate referred to in regulation 2.J.14; or
- (b) by deduction from any payment of a benefit to, or in respect of, the member entitled to that benefit: such a deduction must be to the member’s advantage and is subject to the member’s consent.”.

Amendment of regulation 2.C.2

32.—(1) Regulation 2.C.2 (contribution rate for members other than non-GP providers) is amended as follows.

(2) For the table in paragraph (2) substitute—

“Scheme Year 2013-2014

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay band</i>	<i>Contribution percentage rate</i>
Up to £15,278	5%
£15,279 to £21,175	5.3%
£21,176 to £26,557	6.8%
£26,558 to £48,982	9%
£48,983 to £69,931	11.3%
£69,932 to £110,273	12.3%

(14) Substituted by [S.I. 2010/1634](#), regulations 8 and 10.

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay band</i>	<i>Contribution percentage rate</i>
£110,274 to any higher amount	13.3%”.

(3) For paragraph (4), substitute—

“(4) Before determining those pensionable pay bands or contribution percentage rates, the Secretary of State must consider the advice of the Scheme actuary.”.

Amendment of regulation 2.C.4

33.—(1) Regulation 2.C.4 (contribution rate and determination of pensionable earnings for non-GP providers) is amended as follows.

(2) For paragraph (4), substitute—

“(4) Before determining those pensionable earnings bands or contribution percentage rates, the Secretary of State must consider the advice of the Scheme actuary.”.

(3) In paragraphs (5) (twice), (7) (three times), 9 (three times), (11) (twice), (12) (twice), (13) and (14) (twice), omit “Trust or”.

(4) For paragraph (15) substitute—

“(15) For the purposes of this regulation, “the relevant table” means—

- (a) in respect of the 2012-2013 scheme year, table 1;
- (b) in respect of the 2013-2014 scheme year, table 2.

Table 1

Scheme Year 2012-2013

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £26,557	6.5%
£26,558 to £48,982	8%
£48,983 to £69,931	8.9%
£69,932 to £110,273	9.9%
£110,274 to any higher amount	10.9%

Table 2

Scheme Year 2013-2014

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £15,278	5%

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
£15,279 to £21,175	5.3%
£21,176 to £26,557	6.8%
£26,558 to £48,982	9%
£48,983 to £69,931	11.3%
£69,932 to £110,273	12.3%
£110,274 to any higher amount	13.3%”.

Amendment of regulation 2.C.5

34. In paragraphs (6), (7), (8)(four times) and (9) of regulation 2.C.5 (contributions by employing authorities: general)(15), omit “Trust or”.

Amendment of regulation 2.C.6

35. After paragraph (4) of regulation 2.C.6 (contributions by employing authorities: members becoming entitled to pension under regulation 2.D.11), insert—

“(4A) Sub-paragraph (b) of paragraph (4) does not apply where the member leaves the employment in which the member was an active member on, or after, 1st April 2013.”.

Amendment of regulation 2.C.13

36.—(1) Regulation 2.C.13 (cancellation of options under regulation 2.C.8) is amended as follows.

(2) In paragraph (4), after “such an option” insert “in accordance with paragraph (3)”.

(3) After paragraph (4), add—

“(5) If, after the exercise of the option under regulation 2.C.8, the Secretary of State has reasonable grounds to believe that the member’s health will prevent the member from paying contributions for the whole contribution period, the Secretary of State may cancel the option by giving the member notice in writing.

(6) If the Secretary of State cancels such an option in accordance with paragraph (5)—

(a) the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice (“date of cancellation”) and all subsequent pay periods, and

(b) any periodical payments made prior to the date of cancellation shall be returned to the member.”.

Amendment of regulation 2.C.15

37. At the end of paragraph (4) of regulation 2.C.15 (effect of death or early payment of pension after option exercised under regulation 2.C.8, 2.C.10 or 2.C.11), add (as full out words) “This is subject to regulation 2.C.13(5) and (6).”.

(15) Substituted by [S.I. 2010/1634](#), regulations 8, 14.

Amendment of regulation 2.D.11

38. For paragraph (1)(c) of regulation 2.D.11 (early retirement on termination of employment by employing authority), substitute—

- “(c) the member’s employing authority certifies that the member—
- (i) has at least 2 years’ continuous employment determined in accordance with any terms and conditions applying to the employment,
 - (ii) is entitled to claim a pension under this regulation if the member’s employment is terminated by reason of redundancy as an alternative to receiving (in whole or in part) the lump sum payment otherwise payable to the member in accordance with those terms and conditions, and
 - (iii) has not unreasonably refused to seek suitable alternative employment or accept an offer of such employment.”.

Amendment of regulation 2.E.11

39. For paragraph (6) of regulation 2.E.11 (amount of children’s pension under regulation 2.E.8: deceased pensioner members), substitute—

- “(6) In a case within paragraph (4)(b) or (c), the rate of the pension in respect of the dependent child or children for the period of 6 months beginning with the deceased’s death is equal to the greater of—
- (a) the rate of the member’s pension at the date of death disregarding any reduction made under Chapter 2.H (abatment) and any additional pension, and
 - (b) the amount of children’s pension that would otherwise be payable under these Regulations.”.

Amendment of regulation 2.F.10

40. In paragraph (1) of regulation 2.F.10 (acceptance of transfer value payments)—

- (a) for “he” substitute “Secretary of State”; and
- (b) for “(4)” substitute “(5)”.

Amendment of regulation 2.H.1

41. Omit paragraph (5) of regulation 2.H.1(16) (application of chapter 2.H).

Amendment of regulation 2.H.3

42.—(1) Regulation 2.H.3 (reduction of pension) is amended as follows.

- (2) In paragraphs (1) and (2) for “scheme year” substitute “financial year”.
- (3) For paragraphs (6) and (7) substitute—

“(6) For the purpose of calculating the reduction to be made under paragraph (1) in respect of any part of a financial year, the amount of the member’s previous pay will be reduced proportionately.”.

Amendment of regulation 2.H.4

43. In regulation 2.H.4 (meaning of “relevant income”), for “scheme year” (twice) substitute “financial year”.

Amendment of regulation 2.H.5

44. In regulation 2.H.5 (meaning of “previous pay”: general), for “scheme year” (three times) substitute “financial year”.

Amendment of regulation 2.H.6

45. In regulation 2.H.6 (meaning of “previous pay”: members with concurrent employments), for “scheme year” (four times) substitute “financial year”.

Amendment of regulation 2.H.8

46. In regulation 2.H.8 (employed pensioners with more than one pension), for “scheme year” (four times) substitute “financial year”.

Amendment of regulation 2.H.9

47. In regulation 2.H.9 (provisional reductions and later adjustments), for “scheme year” (eight times) substitute “financial year”.

New regulation 2.J.2A

48. After regulation 2.J.2 (claims for benefits), insert—

“2.J.2.A Provision of information: continuing entitlement to benefit

(1) The Secretary of State may specify a date by which a person who is in receipt of a benefit under this Section of the Scheme is to provide the Secretary of State with all or any of the following material—

- (a) evidence of the person’s identity;
- (b) the person’s contact details;
- (c) evidence of the person’s continuing entitlement to the benefit.

(2) Where a person fails to provide the material referred to in paragraph (1) in accordance with that paragraph the Secretary of State may withhold all, or any part of, any benefit payable to that person.”.

Amendment of 2.J.12

49. In regulation 2.J.12 (general prohibition on unauthorised payments), for “rules” substitute “Regulations”.

Amendment of regulation 2.J.14

50. In paragraph (1) of regulation 2.J.14 (employing authority and certain member record keeping and contribution estimates)(17), omit “Trust or”.

(17) Substituted by [S.I. 2009/381](#), regulation 52 and amended by [S.I. 2009/2446](#), regulations 11, 103, Schedule 2, Part 1, paragraph 1(a).

Amendment of regulation 3.A.1

51.—(1) Regulation 3.A.1 (interpretation of Part 3: general) is amended as follows.

(2) At the appropriate place in the alphabetical order, insert—

““the 2008 Act” means “the Pensions Act 2008(18);”;

““2010 Regulations” means the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(19);”;

““automatic enrolment date” means the date referred to in section 3(7) of the 2008 Act;”;

““automatic re-enrolment date” means the date determined in accordance with regulation 12 of the 2010 Regulations (as modified by regulation 14(20) of those Regulations);”;

““foundation trainee” means a dentist performer who is employed as a foundation trainee as a consequence of a placement arrangement made by a local postgraduate dental dean or a director of postgraduate dental education;”;

““NHS 111 services” means services provided as part of the telephone advice line commissioned by a Clinical Commissioning Group or the National Health Service Commissioning Board;”.

(3) In the definition of—

(a) “APMS contract” and “APMS contractor”(21), for—

(i) “a Primary Care Trust” substitute “the National Health Service Commissioning Board”, and

(ii) “section 83(2)(b)” substitute “section 83(2)”;

(b) “Board and advisory work”, for “primary medical” (twice) substitute “NHS”;

(c) “collaborative services”,—

(i) omit “the Secretary of State,”(twice),

(ii) for “a Primary Care Trust” substitute “the National Health Service Commissioning Board, a Clinical Commissioning Group”,

(iii) for “the Primary Care Trust” substitute “the National Health Service Commissioning Board, a Clinical Commissioning Group”,

(iv) for “section 80(6)”, substitute “section 80(6A)”;

(d) “commissioned services”—

(i) in paragraph (b)(i), omit “a Strategic Health Authority or”,

(ii) for sub-paragraph (ii), substitute—

“(ii) the National Assembly for Wales, the National Health Service Commissioning Board or a Local Health Board under, in the case of England section 12ZA of the 2006 Act or, in the case of Wales, section 10 of the 2006 (Wales) Act (which relates to arrangements made with any person or body including a voluntary one, for the provision of services under the Act); or”,

(iii) at the end of paragraph (b)(iv), insert “or”,

(iv) after paragraph (b)(iv), add—

“(v) a local authority acting under section 2B of the 2006 Act;”;

(e) “dentist performer”—

(18) 2008 c.30.

(19) S.I. 2010/772.

(20) Regulation 14 was substituted by S.I. 2012/215, regulations 17, 22.

(21) Amended by S.I. 2008/2263, regulation 54(1), (2)(a).

- (i) in paragraph (a), for “vocational trainee” substitute “foundation trainee” and for “vocational training” substitute “foundation training”,
- (ii) for paragraph (b)(iii), substitute—
 - “(iii) a contract for services with a Local Health Board which relates to arrangements under which it provides primary dental services under section 56(2) of the 2006 (Wales) Act (primary dental services) or a PDS agreement to which a PDS contractor is not a party;”;
- (f) “employing authority”—
 - (i) paragraphs (a) and (c) are omitted,
 - (ii) in paragraph (g)(i), after the words “an Act relating to health services” insert “(in whole or in part)”,
 - (iii) in paragraph (n), omit “Trust or”, and
 - (iv) after paragraph (n), add—
 - “(o) the National Health Service Commissioning Board established under section 9 of the Health and Social Care Act 2012;
 - (p) a Clinical Commissioning Group established under section 10 of the Health and Social Care Act 2012;”;
- (g) “GDS Contractor” for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
- (h) “GMS practice”(22) for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
- (i) “GP performer”—
 - (i) for “or certification services”, substitute “, certification services, Board and advisory work, health-related functions exercised under section 75 of the 2006 Act, NHS 111 services or pharmaceutical services”,
 - (ii) in paragraph (c)—
 - (aa) omit “a Primary Care Trust or”,
 - (bb) in sub-paragraph (i), omit “83(2)(a) of the 2006 Act or”,
 - (iii) in sub-paragraph (ii), omit “or section 92 arrangements made between a Primary Care Trust or a Local Health Board and a Strategic Health Authority”;
- (j) “host Trust or Board”(23)—
 - (i) for “host Trust or Board” substitute “host Board”,
 - (ii) for “each Primary Care Trust or Local Health Board” (twice) substitute “the National Health Service Commissioning Board or each Local Health Board”,
 - (iii) for “relevant Trust or Board” substitute “relevant Board”,
 - (iv) for “appropriate Trust or Board” (twice) substitute “appropriate Board”,
 - (v) for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
- (k) “locum practitioner”—
 - (i) in paragraph (e), omit “Primary Care Trust or”, and

(22) Amended by S.I. 2010/492, regulations 16, 36(a)(i) and (ii).

(23) Substituted by S.I. 2009/2446, regulations 11, 53(1), (4)(b) and amended by S.I. 2010/492, regulations 16, 36(b).

- (ii) after “certification services” insert “, Board and advisory work, health related functions exercised under section 75 of the 2006 Act, NHS 111 services”;
 - (l) “medical performers’ list”, in paragraph (a), for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
 - (m) “ophthalmic provider”(24), in paragraph (a)(i), for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”;
 - (n) “PDS contractor”, in paragraph (b)—
 - (i) for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”, and
 - (ii) omit “nor a Strategic Health Authority,”;
 - (o) “PMS practice”, for—
 - (i) “a Primary Care Trust” substitute “the National Health Service Commissioning Board”, and
 - (ii) “the Primary Care Trust” substitute “the National Health Service Commissioning Board”;
 - (p) “type 2 dental practitioner”—
 - (i) in paragraph (a), for “vocational trainee” substitute “foundation trainee”,
 - (ii) in paragraph (b)—
 - (aa) for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”,
 - (bb) omit “Trust or”, and
 - (cc) omit “in the case of England, section 99(2) of the 2006 Act or,”;
 - (q) “type 2 medical practitioner” omit “a Primary Care Trust” (twice).
- (4) Omit the definitions of “Executive Committee” and “vocational trainee”.
- (5) For the definition of—
- (a) “enhanced services” substitute—
 - “enhanced services, in relation to—
 - (a) a GMS practice, has the meaning given in regulation 2(1) of the GMS Contracts Regulations; or
 - (b) any other performer or provider of primary medical services, means services which, if provided by a GMS practice, would be enhanced services within the meaning given in regulation 2(1) of those Regulations,
- and, in each case, includes local enhanced services and public health local enhanced services which were, prior to 1st April 2013, commissioned by a Primary Care Trust under regulation 2(1) of the GMS Contracts Regulations as—
- (i) local enhanced services, or
 - (ii) public health local enhanced services and transferred, on or after 1st April 2013, to a local authority by a transfer scheme made pursuant to section 300 of the Health and Social Care Act 2012”; and
- (b) “pay period” substitute—

(24) Substituted by [S.I. 2008/2263](#), regulation 54(1), 2(h)(i) and amended by [S.I. 2010/492](#), regulations 16, 36(c).

“pay period” means, in relation to members who receive either salary, wages or other regular payments under a contract of employment or a contract for services, the period in respect of which each payment is made in accordance with the terms of that contract.”.

Amendment of regulation 3.A.6

52.—(1) Regulation 3.A.6 (qualifying service: disregard of breaks in service) is amended as follows.

(2) In paragraph (6)—

(i) for “Paragraphs (2), (4) and (5) do not apply if” substitute “Where”,

(ii) in sub-paragraph (a), after “the earlier period” insert “, paragraphs (4) and (5) do not apply”, and

(iii) in sub-paragraph (b), at the end, add “, paragraphs (2), (4) and (5) do not apply”.

(3) In paragraph (7), for “(6)(b)” substitute “(6)(a)”.

Amendment of regulation 3.A.7

53.—(1) Regulation 3.A.7(25) (meaning of “pensionable earnings”) is amended as follows.

(2) In paragraph (2)(a)(v), for “a Primary Care Trust” substitute “the National Health Service Commissioning Board”.

(3) In paragraph (2)(a)(v)(aa), for “section 83(2)(a)” substitute “section 83(2)”.

(4) In paragraph (2)(a)(vii), after “collaborative services” insert “, NHS 111 services”.

(5) After paragraph (2)(d), insert—

“(e) any sums paid in respect of health-related functions exercised under section 75 of the 2006 Act.”.

(6) In paragraph (4), for—

(a) “Primary Care Trust” substitute “National Health Service Commissioning Board”; and

(b) in sub-paragraphs (d) and (e), for “vocational trainee” substitute “foundation trainee”.

(7) In paragraph (6), in sub-paragraphs (a) and (b), for “vocational trainee” substitute “foundation trainee”.

Amendment of regulation 3.A.8

54. After paragraph (10) of regulation 3.A.8(26) (pensionable earnings – breaks in service), add—

“(11) Before a calculation of a member’s pensionable earnings can be made in accordance with paragraph (3), written notice of the length of the period of absence to which this regulation applies must be given to the Secretary of State by—

(a) the member, where the member is a type 1 practitioner or a non-GP provider; or

(b) in all other cases, the National Health Service Commissioning Board or relevant Local Health Board.

(12) The notice referred to in paragraph (11) must be provided to the Secretary of State in such form and manner as the Secretary of State may stipulate from time to time.”.

(25) Amended by [S.I. 2008/2263](#), regulation 58; [S.I. 2009/2446](#), regulations 11, 56 and [S.I. 2011/2586](#), regulations 14, 25.

(26) Amended by [S.I. 2008/2263](#), regulation 59 and [S.I. 2009/2446](#), regulations 11, 103, Schedule 2, Part 1, paragraph 1(a).

Amendment of regulation 3.A.9

55. In paragraph (4) of regulation 3.A.9 (calculating pensionable earnings of medical practitioners in partnership), after “will be made by” insert “the National Health Service Commissioning Board or” and omit “or Primary Care Trust”.

Amendment of regulation 3.A.10

56.—(1) Regulation 3.A.10 (elections relating to calculation of pensionable earnings in medical partnerships), is amended as follows.

(2) In paragraph (1), omit “Trust or”.

(3) In paragraph (3) and (4)(a)(i), omit “Primary Care Trust or Local Health” and before “Board” insert “host”.

Amendment of regulation 3.A.13

57.—(1) Regulation 3.A.13 (meaning of pensionable earnings in relation to other practitioners) is amended as follows.

(2) In paragraph (1)(a), after “general dental services” insert “, NHS 111 services”.

(3) After paragraph (1)(c), insert—

“(d) any sums paid in respect of health-related functions exercised under section 75 of the 2006 Act,”.

(4) In paragraph (2)(a), for “vocational trainee” substitute “foundation trainee”.

(5) In paragraph (4), for “or pharmaceutical services” substitute “, health-related functions exercised under section 75 of the 2006 Act, pharmaceutical services or NHS 111 services”.

Amendment of regulation 3.A.15

58. In regulation 3.A.15 (limit on pensionable earnings-dentist performers carrying on deceased person’s business), omit “Primary Care Trust,” and after “Board” insert “, the National Health Service Commissioning Board”.

Amendment of regulation 3.A.16

59. In regulation 3.A.16 (out of hours providers)(27), for—

(a) “Primary Care Trust” (five times) substitute “Clinical Commissioning Group, the National Health Service Commissioning Board”; and

(b) “Trust or Board” (nine times) substitute “Group or Board”.

Amendment of regulation 3.B.4

60.—(1) Regulation 3.B.4 (joining this Section of the Scheme) is amended as follows.

(2) For paragraph (1), substitute—

“(1) Subject to paragraph (3), a person in NHS employment who is eligible to be an active member of this Section of the Scheme becomes such a member, unless absent from work for any reason, on either—

(a) the commencement of the person’s employment; or

(27) Substituted by [S.I. 2009/381](#), regulation 55 and amended by [S.I. 2010/1634](#), regulations 8, 16(1), (3), [S.I. 2011/2586](#), regulations 14, 28(a)(i), (ii), (b)(i), (ii), (iii), (c)(i), (ii), (iii) and by [S.I. 2012/610](#), regulations 9, 11.

- (b) in circumstances where the person has previously opted out of this Section of the Scheme under regulation 3.B.5(1), on that person’s—
 - (i) automatic enrolment date; or
 - (ii) automatic re-enrolment date, except where the notice referred to in regulation 3.B.5(1) was given within the 12 months immediately preceding that date.”.
- (3) For paragraph (3), substitute—

“(3) A person who has previously exercised an option to opt out of this Section of the Scheme in accordance with regulation 3.B.5(1) in respect of an employment in which that person was an active member, and who remains eligible to be such a member in respect of that employment, may opt to join or re-join this Section of the Scheme by giving notice in writing to the employing authority in such form as the Secretary of State requires.”.
- (4) Omit paragraph (6).

Amendment of regulation 3.B.5

- 61.**—(1) Regulation 3.B.5 (opting out of this Section of the Scheme) is amended as follows.
- (2) In paragraph (1), after “any” insert “NHS”.
 - (3) For paragraph (2), substitute—

“(2) A person who opts out under paragraph (1) ceases to be an active member of this Section of the Scheme on the date the notice takes effect and, if applicable, any contributions made by or on behalf of the person for a period of membership after the date on which the notice was effective must be refunded.”.
 - (4) For paragraphs (4) and (5), substitute—

“(4) A person to whom paragraph (1)(a) of regulation 3.B.4 applies in respect of an employment who gives notice in writing under paragraph (1) of this regulation within one month of the date of commencing that NHS employment, is treated as not having become an active member by virtue of that regulation.

(5) A notice under paragraph (1) shall cease to have effect on the day immediately preceding, as the case may be, the person’s—

 - (a) automatic enrolment date, or
 - (b) automatic re-enrolment date: this does not apply where the notice was given within 12 months immediately preceding that date.”.
 - (5) Omit paragraph (6).
 - (6) In paragraph (7), after “Part 2” insert “or as a locum practitioner”.
 - (7) After paragraph (7), add—

“(8) This regulation does not apply to a person to whom sections 3, 5 or 8 of the 2008 Act⁽²⁸⁾ and regulations 9 or 15 of the 2010 Regulations⁽²⁹⁾ applies (that is, a person who is subject to automatic enrolment or automatic re-enrolment in this Section of the Scheme as a qualifying scheme who does not wish to participate in it): this paragraph does not affect the rights of such a person who subsequently becomes a member of this Section of the

(28) Section 3 makes provision for the automatic enrolment of a qualifying worker into a qualifying scheme like the NHS Pension Scheme. Section 5 makes provision for the automatic re-enrolment of such a person into such a scheme who has previously opted out of it. Section 8 makes provision for the opting out of such a scheme, including the effect of such an opt out.

(29) Regulation 9 sets out the requirements for a valid opt out notice and the time period during which a person who has been automatically enrolled into a qualifying scheme may opt out of it. Regulation 15 applies the provisions of regulation 9 to a person who has been automatically re-enrolled into a qualifying scheme having previously opted out of it. Note that regulation 11 deals with the refund of contributions following an opt out.

Scheme in circumstances where those provisions of the 2008 Act and 2010 Regulations do not apply.”.

Amendment of regulation 3.C.2

62.—(1) Regulation 3.C.2 (members’ contribution rate)(**30**) is amended as follows.

(2) Omit “Trust or” (seventeen times).

(3) For paragraph (4), substitute—

“(4) Before determining those pensionable earnings bands or contribution percentage rates, the Secretary of State must consider the advice of the Scheme actuary.”.

(4) In paragraph (14) and (15), for “paragraph 2 of this regulation” substitute “this regulation and regulation 3.C.3”.

(5) For paragraph (17) substitute—

“(17) For the purposes of this regulation, “the relevant table” means—

(a) in respect of the 2012-2013 scheme year, table 1;

(b) in respect of the 2013-2014 scheme year, table 2.

Table 1

Scheme Year 2012-2013

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £26,557	6.5%
£26,558 to £48,982	8%
£48,983 to £69,931	8.9%
£69,932 to £110,273	9.9%
£110,274 to any higher amount	10.9%

Table 2

Scheme Year 2013-2014

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £15,278	5%
£15,279 to £21,175	5.3%
£21,176 to £26,557	6.8%
£26,558 to £48,982	9%

(30) Substituted by [S.I. 2009/381](#), regulation 55 and amended by [S.I. 2010/1634](#), regulations 8, 16(1), (2), (3) and by [S.I. 2011/2586](#), regulations 14, 28(a)(i), (ii), (b)(i), (b)(ii), (iii), (c)(i), (ii), (iii) and by [S.I. 2012/610](#), regulations 9, 18.

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
£48,983 to £69,931	11.3%
£69,932 to £110,273	12.3%
£110,274 to any higher amount	13.3%”.

Amendment of regulation 3.C.5

63.—(1) Regulation 3.C.5 (payment of contributions)(31) is amended as follows.

(2) In paragraphs (2), (4) to (10) and (16) to (18), omit “Trust or” (twenty three times in total).

(3) For paragraph (11), substitute—

“(11) If a locum practitioner is liable to pay contributions under paragraph (10) in respect of pensionable locum work for an employing authority, that employing authority must pay C3 contributions to the host Board.”.

(4) In paragraph (12), in sub-paragraphs (a) and (b), for “vocational trainee” substitute “foundation trainee”.

(5) For paragraph (13), substitute—

“(13) If C3 contributions are payable for a locum practitioner under paragraph (11) in respect of pensionable locum work carried out for an employing authority, those contributions must be paid to—

- (a) the host Board if the employing authority is not that host Board;
- (b) the Secretary of State if the employing authority is the host Board.”.

(6) For paragraph (19), substitute—

“(19) Paragraph (19A) applies where, despite the provisions of this regulation—

- (a) a type 1 or type 2 practitioner, or a locum practitioner has failed to pay contributions; or
- (b) an employing authority has failed to deduct such contributions.

(19A) The Secretary of State may recover the amount of any unpaid contributions referred to in paragraph (19)—

- (a) where an employing authority has ceased to exist and paragraph (a) of that sub-paragraph applies, by adding the amount of those unpaid contributions to the amount of contributions the practitioner in question is due to pay to the host Board: that practitioner is to record the amount of those unpaid contributions in a certificate referred to in regulation 2.J.14; or
- (b) by deduction from any payment of a benefit to, or in respect of, the member entitled to that benefit: such a deduction must be to the member’s advantage and is subject to the member’s consent.

(19B) Paragraph (19A) is without prejudice to any other method of recovery the Secretary of State may have.”.

Amendment of regulation 3.C.11

64.—(1) Regulation 3.C.11 (cancellation of options under regulation 3.C.6) is amended as follows.

(2) In the heading , for “3.C.8” substitute “3.C.6”;

(3) In paragraph (4), after “such an option” insert “in accordance with paragraph (3),”.

(4) After paragraph (4), add—

“(5) If, after the exercise of the option under regulation 3.C.6, the Secretary of State has reasonable grounds to believe that the member’s health will prevent the member from paying contributions for the whole contribution period, the Secretary of State may cancel the option by giving the member notice in writing.

(6) If the Secretary of State cancels such an option in accordance with paragraph (5)—

(a) the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice (“date of cancellation”) and all subsequent pay periods, and

(b) any periodical payments made prior to the date of cancellation shall be returned to the member.”.

Amendment of regulation 3.C.13

65. In paragraph (4) of regulation 3.C.13 (effect of death or early payment of pension after option exercised under regulation 3.C.6, 3.C.8 or 3.C.9), for “If a member” substitute “Subject to regulation 3.C.11(5) and (6), if a member”.

Amendment of regulation 3.D.5

66. In regulation 3.D.5 (partial retirement (members aged at least 55))(32), omit “Trust or” (twice).

Amendment of regulation 3.E.11

67. For paragraph (6) of regulation 3.E.11 (amount of children’s pension under regulation 3.E.8: deceased pensioner members), substitute—

“(6) In a case within paragraph (4)(a) or (c), the rate of the pension in respect of the dependent child or children for the period of 6 months beginning with the deceased’s death is equal to the greater of—

(a) the rate of the member’s pension at the date of death disregarding any reduction made under Chapter 2.H (abatement) and any additional pension, and

(b) the amount of children’s pension that would otherwise be payable under these Regulations.”.

Amendment of regulation 3.H.1

68. Omit paragraph (6) of regulation 3.H.1(33) (application of chapter 3.H).

Amendment of regulation 3.H.3

69.—(1) Regulation 3.H.3 (reduction of pension) is amended as follows.

(32) Amended by S.I. 2009/regulation 58(a), (b), (c) and by S.I. 2009/2446, regulations 11, 70.

(33) Amended by S.I. 2009/2446, regulations 11, 103, Part 2, Part 1, paragraph 1(a) and by S.I. 2012/610, regulations 9, 15.

(2) In paragraphs (1) and (2) for “scheme year” substitute “financial year”.

(3) For paragraphs (6) and (7) substitute—

“(6) For the purpose of calculating the reduction to be made under paragraph (1) in respect of any part of a financial year, the amount of the member’s previous pay will be reduced proportionately.”.

Amendment of regulation 3.H.4

70. In regulation 3.H.4 (meaning of “relevant income”), for “scheme year” (twice) substitute “financial year”.

Amendment of regulation 3.H.5

71. In regulation 3.H.5 (meaning of “previous earnings”: general), for “scheme year” (three times) substitute “financial year”.

Amendment of regulation 3.H.6

72. In regulation 3.H.6 (employed pensioners with more than one pension), for “scheme year” (four times) substitute “financial year”.

Amendment of regulation 3.H.7

73. In regulation 3.H.7 (provisional reductions and later adjustments), for “scheme year” (eight times) substitute “financial year”.

New regulation 3.J.2A

74. After regulation 3.J.2 (claims for benefits), insert—

“3.J.2A Provision of information: continuing entitlement to benefit

(1) The Secretary of State may specify a date by which a person who is in receipt of a benefit under this Section of the Scheme is to provide the Secretary of State with all or any of the following material—

- (a) evidence of the person’s identity;
- (b) the person’s contact details;
- (c) evidence of the person’s continuing entitlement to the benefit.

(2) Where a person fails to provide the material referred to in paragraph (1) in accordance with that paragraph the Secretary of State may withhold all, or any part of, any benefit payable to that person .”.

Amendment of regulation 3.J.14

75. In regulation 3.J.14 (employing authority and certain member record keeping and contribution estimates)(34), omit “Trust or” (eleven times).

(34) Substituted by [S.I. 2008/381](#), regulation 83 and amended by [S.I. 2011/2586](#), regulations 14, 35.

Amendment of regulation 3.K.3

76. In regulation 3.K.3 (service and pensionable earnings credited from the 1995 Section)(**35**), omit “Trust or” (twice).